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**From:** connie pascale <cpascale24@gmail.com>  
**Sent:** Friday, October 16, 2020 3:52 PM  
**To:** Comments Mailbox  
**Subject:** [External]Comments regarding proposed amendments to Court Rule 1:38-3 (enclosed and attached)  
**Attachments:** Tenant screening - Ct Rule re records - comments.docx

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October 16, 2020

Glenn A. Grant, J.A.D.

Acting Administrative Director of the Courts

**Comments on Proposed Amendments to Rule 1:38-3 – Records of  
Landlord/Tenant Matters Not Resulting in Judgment for Possession**

Hughes Justice Complex; P.O. Box 037

Trenton, New Jersey 08625-0037

**Re: Support for proposed addition to Rule 1:38-3, with clarifying amendments**

Dear Judge Grant,

Thank you for the opportunity to comment on this important Rule change. As an individual, retired attorney, and Board Member of STEPS (Solutions to End Poverty Soon), I would like to express strong support for the proposed amendment to Court Rule 1:38-3, which prohibits public access to records relating to summary dispossess proceedings - including any records relating to the filing of the complaint or otherwise indicating that a case even exists or existed - unless the matter results in an actual eviction.

Centuries of systemic and structural racism have resulted in Black and Brown people being disproportionately tenants, and tenants being disproportionately people of color, lower-income, and otherwise disadvantaged. As a result, they are also disproportionately involved in eviction filings and summary dispossess proceedings.

The application screening criteria used by many landlords – including those operating critically important subsidized housing, or considering applicants holding rental vouchers or other tenant-based subsidies - often contain language such as “if you were ever sued for a lease violation, you will be rejected” (actual wording), whether or not the eviction matter was justified, successful or even filed in error. Scores of firms mine and

compile court filing data and sell it to landlords, who all too often use it pretextually to reject African Americans and other people of color.

For this reason, the proposed amendment to the Court Rules – **clarified and strengthened as suggested below** - barring access to this data unless an eviction has actually occurred represents an important step in the direction of preventing and addressing this form of invidious discrimination. (We also strongly urge the Court to support S539/A3109, a bill pending in the NJ Legislature, which, among other things, make rejection of a rental application solely because of court filing a violation of the Law Against Discrimination.)

**However, we believe that additional amendments to the proposed Rule are necessary to clarify the purpose and intent embodied in the Court’s Notice describing it.** More specifically, they emphasize the importance of barring access to filing data, and insuring that only actual evictions are subject to disclosure. These suggested amendments have been set forth below in bold italics and incorporated into the proposed new section 11.

Rule 1:38-3. Court Records Excluded from Public Access

The following court records are excluded from public access:

(a) – (e) ... no change

(f) Records of Other Proceedings.

1) – (9) ... no change

(10) Certification of Confidential Information for Name Change forms and Final Judgment Addendum forms prepared in actions for change of name pursuant to N.J.S.A. 2A:52-1 and R. 4:72-1 et seq.;

(11) **Records, including any record of the initial or subsequent filings, of any landlord/tenant matter that did not or does not result in a final judgment for possession. No judgment for possession entered as part of a settlement agreement or judicial ruling shall be considered final unless it involves an executed warrant of removal.**

Please feel free to contact the undersigned at your convenience if you have any questions or require any additional information.

Thank you again for the opportunity to comment on this critically important proposal, which will help close one of the many doors used to perpetuate the invidious discrimination and exclusion that have made NJ one of the most segregated states in our country.

Sincerely,

Connie M. Pascale

Individually, and a Board Member of STEPS (Solutions to End Poverty Soon)